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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,320

02/26/2007

Kenneth George Brash

37388-405800

4956

27717 7590 02/22/2010  
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EXAMINER

PARADISO, JOHN ROGER

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

02/22/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,320	<b>Applicant(s)</b> BRASH, KENNETH GEORGE	
	<b>Examiner</b> John Paradiso	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10, 13-17, 24-30, 32-37, 40-44 and 74-103 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13-17, 24-30, 32-37, 40-44 and 74-103 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

***DETAILED ACTION***

***Request for Continued Examination***

1. The request filed on 12/14/2009 for a Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 10/582,320 is acceptable and a CPA has been established. An action on the CPA is attached.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10, 13-17, 24-30, and 32-37, 40-44, 74-103 are rejected under 35 U.S.C. 103(a) as being unpatentable over SAVUR ET AL (WO 183317 A1) in view of OTSUKI ET AL (JP 08322449-A).

SAVUR ET AL discloses a method and apparatus for transporting perishables inside a shipping container (see page 34 and Fig. 1) including a door (14).

SAVUR ET AL does not disclose means or method for removing residual gas from the container through the door.

OTSUKI ET AL discloses a mobile fumigation system positioned within at least one ISO general purpose shipping container (container van 1) comprising a first gas-tight compartment including a fumigation chamber (10); a second compartment (9) including a fumigation apparatus (12) operatively coupled to the fumigation chamber (see Fig. 1); and a partition wall (3) separating the first and second compartments; a fumigant inlet device (21, 13) operatively coupled to the fumigation chamber through the partition wall to allow a fumigant (C02) into the fumigation chamber (10); an extraction device (14) operatively coupled to the fumigation chamber and arranged to remove a majority of the fumigant from the fumigation chamber (see Figs. 2-4); an absorption means (35) operatively coupled to the extraction device (via interconnection of the parts into an assembly) and being designed to absorb the fumigant removed from the fumigation chamber (35 performs the function of absorbing ethylene which is circulating within the container; no particular fumigant or absorption means being particularly claimed). Also disclosed is a system control box containing a plurality of floor and wall-mounted pipes (see pipes between each of 14-17, 19, & 35 and apertures in 5, 6) independently connected via a system of taps and connectors to a fumigant sampling and detection meter unit (17 connected to the pipes via the interconnected closed loop system; no particular structural configuration being claimed) located in the second compartment (9). The system control box (25) containing a fumigant sampling and detection meter unit (17) and power supply switches for mixing fans, exhaust fan (14), lights (inherently there are light indicators on a control panel), gas heaters (26), and valve actuators (for 18, 22, 23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of SAVUR ET AL by adding the means and method for

Art Unit: 3721

removing residual gas from the container through the door, as taught by OTSUKI ET AL, in order to remove the gas and byproducts completely from the container thus providing less need for consumables (such as charcoal) and increasing the capacity of the system for removing residual gas.

### ***Response to Arguments***

4. Applicant's arguments filed 12/14/2009 have been fully considered but are considered moot in view of the new grounds of rejection above.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.

/John R Paradiso/

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Examiner John Paradiso: (571) 272-4466

February 16, 2010

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 272-4467

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)